



State of Rhode Island and Providence Plantations
DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 2903-3400

Deborah A. Gist, Commissioner

July 20, 2012

To: Superintendents of Schools and School Principals

From: David V. Abbott, Deputy Commissioner and General Counsel

Subject: School Residency Determinations

As the beginning of the school year traditionally brings about many questions on the issue of school residency, I am writing to provide a brief reminder of the process by which residency disputes are to be resolved.

Rhode Island General Law 16-64-6 directs that disputes concerning the residency of students shall be resolved by the Commissioner of Education. In order for the statutory mechanism for resolving residency disputes to operate, a school district must notify the parent(s) or guardian of a student of (1) the reason(s) for the district's refusal to enroll the child in school, and (2) the right of the parent(s) or guardian to appeal the district's decision to the Commissioner. It is critical for this notice to be given so that gaps in school attendance can be avoided. Enclosed is a written notice which we request be used in all determinations that a student is not a resident of your district, along with a *Spanish translation* for your use as needed. By use of the written notice, parents can quickly determine whether they agree with the reasons for the residency determination and, if not, seek review of this decision at the state level. In this way, students whose school residency is in dispute can receive a timely hearing and not be subjected to prolonged periods out of school.

We would appreciate your cooperation in making sure that appropriate staff in your district have copies of this form and that they use it whenever a determination is made of a student's non-residency. Please keep in mind that students already enrolled and in attendance cannot be disenrolled from school while a hearing is pending before the Commissioner's office, because of the state's compulsory attendance law.

Legal Guardianship: Please note that our statute R.I.G.L. 16-64-1 provides that a child can establish residency for school purposes even if he lives separate and apart from his parent and even if he lives with a relative or a person who is not his legal guardian. If a child lives with a person who has not been appointed as his legal guardian but who is acting in loco parentis, and the purpose for these living arrangements is for some *substantial reason other than to attend a district's schools*, the student is entitled to enroll. A district cannot condition school enrollment on the appointment of a legal guardian. The guardianship would not necessarily change a child's residency unless the guardian has been appointed for a substantial reason other than to change the child's residency for school purposes.

Completion of semester: Under R.I.G.L. 16-64-8, if a student changes residence prior to the end of the semester, the student shall be allowed to complete the semester in his or her original school district. If the student is a senior or about to enter the senior year, the student shall be allowed to complete the senior year in his or her original city or town of residence.

Homeless Students – Residency for School Purposes: Homeless students receive the protections of the federal McKinney-Vento Homeless Assistance Act. This means that students defined as homeless under the Homeless Act may request to continue their education in the school district of origin, while under the protection of the Act. Please keep in mind that while students are awaiting placement in a foster home, they are included in the definition of homeless students.

Children Placed in Foster Care: Under R.I.G.L. 16-64-1.1 children placed in foster care are entitled to attend school in the city or town in which they are placed. Children placed in foster care also receive protections under the Fostering Connections to Success and Increasing Adoptions Act of 2008. This federal law addresses the needs of these children for educational stability and continuity. Under this law, a foster child is entitled to remain in his/her original school, unless it is not in the child's best interests. If remaining in the school of origin is determined by DCYF not to be in the best interests of the child, then the child must be allowed to enroll in the district where he/she resides with the foster family. A child's "best interests" will be determined by DCYF after all relevant information about the child has been reviewed.

I hope that this brief summary of the residency rules and procedures will be helpful both now and throughout the school year. Any specific questions should be referred to your district's legal counsel. If we can provide you with any additional information, please contact the Chief Legal Counsel Office at 222-8979 or email Vilma.diorio@ride.ri.gov